

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9367 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

DAYARAM MAHADEV KENGAR

Versus

U.P STATE BRIDGE CORPORATION LTD.

Appearance:

MR LN MEDIPALLY for Petitioner

MR YH VYAS for RespondentS

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 29/06/1999

C A V JUDGEMENT

#. In this petition, the petitioner prayed for the identical relief as prayed by the petitioners of the special civil application No.5429/95. That petition has been dismissed.

#. This petition has come up for preliminary hearing on 30/12/97. It is necessary to notice that the special

civil application No.5429/95 was presented in this court on 4/7/95. This petition is presented in this court on 27/11/97 that is to say after more than 2 years four months. On 30th December, 1997 this court ordered as under :

"Rule returnable by 15/1/98. To be heard with Special Civil Application No.5429 of 1995.

Learned counsel has argued that the matter is identical to Spl. Civil Application No.5429 of 1995 in which interim relief was also granted on 17/4/96. Whereas the petitioner has come to this court now in granting interim relief shall be considered after the other side is served. Direct service is permitted".

#. It is not the case of the petitioner that in this matter, at any stage the interim relief has been granted in his favour by the court. The reply to this special civil application has been filed by the respondent and the rejoinder to these has also been filed by the petitioner. In the reply the respondent has come up with the case that the petitioner was working with the Corporation only up to December, 1996. From the record of this special civil application, it is clear that lastly the petitioner worked in December, 1996 for 17 days. In view of this record, which is not controverted by the petitioner, I am satisfied that the say of the petitioner that his service is likely to be terminated on 25/11/97 is wholly incorrect statement of fact. In the rejoinder the petitioner has tried to give out that he has worked in the month of June, 1997. In support of this statement he has not produced any material. Secondly, when the petitioner has not denied this fact that from the December, 1996 he is not in work and from June, 1997 onward also he has not worked, this writ petition based only on incorrect facts cannot be granted. The petitioner has attempted to conceal material facts with the clear object to take relief in his favour from this court in its extraordinary equitable jurisdiction. However, it is not the matter of the termination of services of the petitioner. Otherwise also no question does arise for giving of the relief as prayed for by the petitioner in this special civil application. Not only that so far as the alleged termination of services of the petitioner is concerned, it is suffice to say that he has efficacious alternative remedy and he has not availed of the same for the reasons which have also not been

explained by him to the satisfaction of the court.

In the result, this petition fails and the same is dismissed. Rule is discharged.

(S.K.Keshote, J.)

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